

**Remarks/Arguments**

**Rejection of Claims 1, 2, 8, 9, and 11-13 under 35 U.S.C. §102(b)**

The Examiner rejected Claims 1, 2, 8, 9, and 11-13 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,687,052 (*Wilson et al.*). Applicant respectfully traverses the rejection and requests reconsideration for the following reasons.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

**Claim 1**

**Wilson does not teach a dynamically tiltable modulator**

Applicant continues to disagree with the Examiner regarding the interpretation of the limitation "mounted tiltable" recited in Claim 1. However, in the interest of furthering prosecution of the present application, Applicant has amended Claim 1 to recite: "the modulator mounted dynamically tiltable." In the March 8, 2006 Brief on Appeal, Applicant argued that the present specification explicitly teaches a modulator that is mounted dynamically tiltable. In the Examiner's Answer, the Examiner has admitted that the specification for the present application teaches a modulator that is mounted dynamically tiltable: "The specification may enable dynamic movement but no such limitation exists in the claim language." (page 7, lines 8 and 9). Thus, the specification clearly enables the modulator recited in Claim 1 as being **moveable and dynamic**. Alternatively stated, the specification clearly shows that "tiltable" is not limited to being **statically tilted**. Therefore, Applicant has amended the aforementioned claim to incorporate the limitation identified by the Examiner.

*Wilson et al.* do not teach a dynamically tiltable modulator. *Wilson et al.* teach a mask that is **tilted** at a fixed angle, but is not **dynamically tiltable**: "The mask 6 is **mounted** with its normal at a small angle, for example a few degrees, to the main optical axis X of the apparatus. The angle is sufficiently small that it has only a nominal effect to the final imaging of the mask

pattern on the object. Where the patterning of the mask is fixed, preferably **the mask is mounted on an axle (not shown) for rotation about its normal.**" (col. 2, lines 57-63) (emphasis added). The mask is installed at an angle, but *Wilson et al.* are silent regarding dynamically tilting the mask once installed and once their system is in use. In fact, *Wilson et al.* teach against a dynamically tiltable mask, since *Wilson et al.* explicitly teach that the angle must be kept small to avoid too great an effect on the imaging – if the mask were dynamically tiltable, this would present the problem of undesirably increasing the angle of the mask during use. Further, *Wilson et al.* teach that the mask is rotatable about its normal – that is, an axis perpendicular to the face of the mask, which is different than being mounted dynamically tiltable.

For all the reasons noted *supra*, *Wilson et al.* do not anticipate Claim 1. Claims 2, 8, and 9, dependent from Claim 1, enjoy the same distinction with respect to the cited reference.

#### **Claims 11, 12, and 13**

Claims 11, 12, and 13 have been amended to recite a modulator being mounted dynamically tiltable. Therefore the arguments regarding Claim 1 are applicable to Claims 11, 12, and 13 and Claims 11, 12, and 13 are novel with respect to *Wilson et al.*

Applicant courteously requests that the rejection be removed.

#### **Rejection of Claims 3 and 10 under 35 U.S.C. §103(a)**

The Examiner rejected Claims 3 and 10 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,687,052 (*Wilson et al.*) in view of U.S. Patent No. 6,057,894 (*Kobayashi*). Applicant respectfully traverses the rejection.

*Wilson et al.* do not teach all the elements of Claim 1, specifically a modulator mounted dynamically tiltable. *Wilson et al.* do not suggest or motivate the preceding element, and in fact, as described *supra*, teach away from including a modulator mounted dynamically tiltable. *Kobayashi* teaches a liquid crystal display and does not cure the defects of *Wilson et al.* with respect to Claim 1. Specifically, *Kobayashi* fails to teach a modulator mounted dynamically

tiltable. Therefore, Claim 1 is patentable over *Wilson et al.* in view of *Kobayashi*. Claims 3 and 10, dependent from Claim 1, enjoy the same distinction from the cited references.

Applicant courteously requests that the rejection be removed.

**Conclusion**

Applicant respectfully submits that all pending claims are now in condition for allowance, which action is courteously requested.

Respectfully submitted,



C. Paul Maliszewski  
Registration No. 51,990  
Simpson & Simpson, PLLC  
5555 Main Street  
Williamsville, NY 14221-5406  
Telephone No. 716-626-1564

Dated: May 17, 2006  
CPM/RCA